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*Attorneys for The Montana Green Party*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

**JAMES LARSON, DONALD  
JUDGE and JEAN PRICE,  
individual electors, and  
MONTANA DEMOCRATIC  
PARTY**

Plaintiffs,

**v.**

**STATE OF MONTANA, by and  
through its SECRETARY OF  
STATE, COREY STAPLETON**

Defendant.

and

**THE MONTANA GREEN  
PARTY,**

Interested Party.

Case No.

***NOTICE OF REMOVAL***

TO: James Larson, Donald Judge, and Jean Price, individual electors, and Montana Democratic Party, Plaintiffs, c/o Peter Michael Meloy, MELOY LAW FIRM, P.O. Box 1241, Helena, MT 59624, and Kevin J. Hamilton PERKINS COIE LLP, 1201 Third Ave., No. 4900, Seattle, WA 98101, Plaintiffs' Attorneys; Defendant State of Montana, c/o Emily Jones, JONES LAW FIRM, PLLC, P.O. Box 81274, Billings, MT 59108-1274; and Lewis and Clark Clerk of District Court.

Party in interest, the Montana Green Party (MTGP), respectfully gives notice and shows the Court:

1. On April 2, 2018, an action was commenced against Defendant State of Montana in the Montana First Judicial District, Lewis & Clark County, entitled *James Larson, Donald Judge, and Jean Price, individual electors, and Montana Democratic Party, Plaintiffs v. State of Montana, by and through its Secretary of State, Corey Stapleton, and The Montana Green Party, Interested Party*, Cause No. CDV 2018-295. On April 19, 2018, Plaintiffs filed their First Amended Complaint.

2. The above-described action is one in which the Court has original jurisdiction under the provisions of 28 U.S.C. § 1331, and is one

which may be removed to the United States District Court, District of Montana, by the Interested Party MTGP herein, pursuant to the provisions of 28 U.S.C. § 1441, in that it is an action involving issues of law arising under the U.S. Constitution.

3. The U.S. Constitutional issues include, without limitation, (a) whether the burdens on fundamental U.S. Constitutional rights imposed by MONT. CODE ANN. § 13-10-601 properly “conditions ballot access in both primary and general elections ‘on a showing of a modicum of voter support’” (First Amended Complaint, ¶ 1 (quoting *Munro v. Socialist Workers Party*, 479 U.S. 189, 196 (1986))); and (b) whether barring MTGP from participation in the 2018 Montana primary and general elections satisfies Constitutional muster by properly promoting the important state interest of preventing “frivolous candidates clogging the ballot and confusing voters.” (First Amended Complaint, ¶ 7 (quoting *Swanson v. Worley*, 490 F.3d 894, 911 (11th Cir. 2007).)

4. Defendant State of Montana, by and through its Secretary of State, Corey Stapleton, consents to removal.

5. Accordingly, MTGP requests that the subject action, *James Larson, Donald Judge, and Jean Price, individual electors, and Montana*

*Democratic Party, Plaintiffs v. State of Montana, by and through its Secretary of State, Corey Stapleton, and The Montana Green Party, Interested Party*, Cause No. CDV 2018-295, now pending in the Montana First Judicial District Court, Lewis & Clerk County, be removed therefrom to the U.S. District Court, District of Montana.

DATED this 27<sup>th</sup> day of April, 2018.

Respectfully Submitted,  
**RHOADES SIEFERT & ERICKSON PLLC**

By: /s/Quentin M. Rhoades  
Quentin M. Rhoades  
*Attorneys for The Montana Green Party*

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of April 2018, I served upon the following a true and correct copy of the foregoing by depositing said copy in the U.S. mail, postage prepaid, and addressed as follows:

Steve Kelly  
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Helena, MT 59601

By: /s/Quentin M. Rhoades  
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